

~~2.17.08.02~~ 1170802DEPARTMENT OF
HEALTH AND ENVIRONMENTAL SCIENCES

1244086 - R8 SDMS



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Solid and Hazardous Waste Bureau

March 15, 1989

ENVIRONMENTAL PROTECTION
AGENCY

MEMO

To: Eric Finke, EPA *ECT*
From: Roger Thorvilson, MDHES

Site East Helena
File # ~~2.17.08.02~~ 1.17.08.02
Confidential: Yes ☐ No ☒
Admin. Record: Yes ☒ No ☐
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MAR 23 1989
MONTANA OFFICE

For the record, I would like to summarize our interpretations of the interaction between RCRA/CERCLA authorities at the Asarco East Helena site:

1. We interpret the definition of KO65 to include impoundment solids generated before, as well as after, the time the listing is effective in Montana. This means that even if Asarco discontinues generation of impoundment solids before the listing is effective, the impoundment solids historically generated and still in place would be considered hazardous wastes.
2. For the purposes of hazardous waste management or ARARS, we believe that the settling pond associated with the acid plant, the speiss granulating pit/pond area, and any remaining solids associated with the former Thornock Lake, as well as the lower lake, contain solids that fall under the definition of KO65.
3. We in the Montana hazardous waste program do not want to see the remediation process at the smelter complicated by dual regulatory authorities. We feel uncomfortable, however, deferring any future regulatory authorities we may have during the remediation process to CERCLA, without a written legal opinion from EPA Regional Counsel or Headquarters. Attached to this memo is a written request for such an opinion. As you know, in recent years EPA has tended to defer to RCRA authorities, at those sites where both RCRA and CERCLA may be appropriate.

If you disagree with any of these interpretations, please let me know immediately.

cc: Jim Harris, EPA
Scott Brown, EPA
Tom Eggert, MDHES